Operable Unit 1
Draft Institutional Control Implementation and Assurance Plan

Libby Asbestos Superfund Site
Libby, Montana

June 2011

Prepared by:

ENVIRONMENTAL PROTECTION AGENCY
Region 8

Contents

Acronyms and Abbreviations

ABS	activity-based sampling
bgs	below ground surface
BNSF	Burlington Northern Santa Fe
cc	cubic centimeter
CFR	Code of Federal Regulations
COC	contaminant of concern
ERS	environmental resource specialist
EPA	United States Environmental Protection Agency
Grace	W.R. Grace
IC	institutional control
ICIAP	Institutional Control Implementation and Assurance Plan
<	less than
LA	Libby amphibole asbestos
MDT	Montana Department of Transportation
MDEQ	Montana Department of Environmental Quality
ND	non-detect
O&M Plan	Operations and Maintenance Plan
OU1	Operable Unit 1
%	percent
PEL	permissible exposure limit
UAO	Unilateral Administrative Order
RI Report	Final Remedial Investigation Report, Operable Unit 1 - Former Export Plant
ROD	Record of Decision
ROW	right-of-way
s/cc	structures per cubic centimeter
s/cm^2	structures per centimeters squared
TLV	threshold limit value
TWA	time-weighted average

Section 1
Introduction

This Institutional Control Implementation and Assurance Plan (ICIAP) was prepared by the U.S. Environmental Protection Agency (EPA) for Operable Unit 1 (OU1) of EPA's Region VIII Libby Asbestos Superfund Site (Exhibit 1-1) in Libby, Montana. Operable Unit 1 is the site of the former W.R. Grace (Grace) Export Plant and is located on the banks of the Kootenai River in central Libby, Montana. It is one of the seven OUs (Exhibit 1-2) at the site. Investigation and cleanup of the site were performed by EPA, in consultation with the Montana Department of Environmental Quality (MDEQ) under the Superfund law.

Insert Exhibit 1-1 from ROD here.

This ICIAP identifies and documents activities that are designed to implement, maintain, and enforce institutional controls (ICs) at OU1, and the organizations responsible for conducting these activities. This ICIAP will help in ensuring that OU1 ICs are properly implemented to protect the remedies in place, and continue to operate as intended.

The City of Libby shall be responsible for oversight of the ICs at OU1.

Comment [NLR1]: Need to determine who will be responsible for oversight of ICs.

Exhibit 1-2. Libby Asbestos Site OUs

OU#	Name
1	Former Export Plant
2	Former Screening Plant and nearby areas
3	Former Vermiculite Mine
4	Libby, Montana (Residential, commercial, industrial, and public properties)
5	Former Stimson Lumber parcel
6	Burlington Northern and Santa Fe Railroad
7	Troy, Montana
8	US and Montana State Highways and secondary highways that lie within the boundaries of OU4 and OU7.

Section 2
Site Details

2.1 Site Description

The Libby Asbestos Superfund Site (CERCLIS #MT0009083840) is located in and around the City of Libby, Montana. Libby is the county seat of Lincoln County and is in the northwest corner of Montana, about 35 miles east of Idaho and 65 miles south of Canada.
Numerous hard rock mines have operated in the Libby area since the 1880s, but the dominant impact to human health and the environment in the City of Libby has been from vermiculite mining and processing. The vermiculite deposit that was mined by Grace contains a distinct form of naturally occurring amphibole asbestos, Libby asbestos (LA), and is considered the contaminant of concern (COC) at the Libby Asbestos Superfund Site. EPA initiated an emergency response action in November 1999 to address questions and concerns raised by citizens of the City of Libby regarding possible ongoing exposures to asbestos fibers as a result of historical mining, processing, and exportation of asbestos-containing vermiculite. To facilitate a multi-phase approach to remediation of the Libby Asbestos Superfund Site, eight separate OUs were established. These OUs are shown on Exhibit 2-1 and are described below:

OU1. Libby Asbestos Superfund Site OU1 is the subject of this ICIAP. The former Export Plant is situated just north of the downtown area of the City of Libby, Montana. The property is bounded by the Kootenai River on the north, Highway 37 on the east, the Burlington Northern Santa Fe (BNSF) railroad thoroughfare on the south, and State of Montana property on the west. OU1 includes the former Export Plant (Area 1), Riverfront Park (Area 2), and the embankments of City Service Road and Highway 37(Area 3). The Highway 37 right-of-way adjacent to the OU1 site was included due to the proximity to the OU1 site and the known contamination in the right-of-way (ROW).

OU2. OU2 includes areas impacted by contamination released from the former Screening Plant. The Highway 37 right-of-way adjacent to the OU2 site was included due to the proximity to the OU2 site and the known contamination in the ROW. For the purposes of this report, the contaminated portion of the Highway 37 right-of-way is considered part of Subareas 1, 2 and 3 within the OU2 site.

OU3. The mine OU includes the former vermiculite mine and the geographic area (including ponds) surrounding the former vermiculite mine that has been impacted by releases from the mine, including Rainy Creek and the Kootenai River. Rainy Creek Road is also included in OU3. The geographic area of OU3 is based primarily upon the extent of contamination associated with releases from the former vermiculite mine.

OU4. OU4 is defined as residential, commercial, industrial (not associated with former Grace operations), and public properties, including schools and parks in and around the City of Libby, or those that have received material from the mine not associated with Grace operations. OU4 includes only those properties not included in other OUs.

OU5. OU5 includes all properties that were part of the former Stimson Lumber Mill and that are now owned and managed by the Kootenai Business Park Industrial Authority.

OU6. The rail yard owned and operated by BNSF is defined geographically by the BNSF property boundaries and extent of contamination associated with BNSF rail operations.

Railroad transportation corridors are also included in this OU and have not been geographically defined.

OU7. The Troy OU includes all residential, commercial, and public properties in and around the Town of Troy, approximately 20 miles west of downtown Libby.

OU8. OU8 is comprised of the US and Montana State Highways and secondary highways that lie within the boundaries of OU4 and OU7.

Insert Exhibit 1-2 from ROD here, to be Exhibit 2-1.

2.1.1 OU1 Characteristics

OU1 covers approximately 17 acres on the south side of the Kootenai River, just north of the City of Libby downtown area (Exhibit 2-2). It is bounded by the Kootenai River on the north, Highway 37 on the east, the BNSF railroad thoroughfare on the south, and State of Montana property on the west.

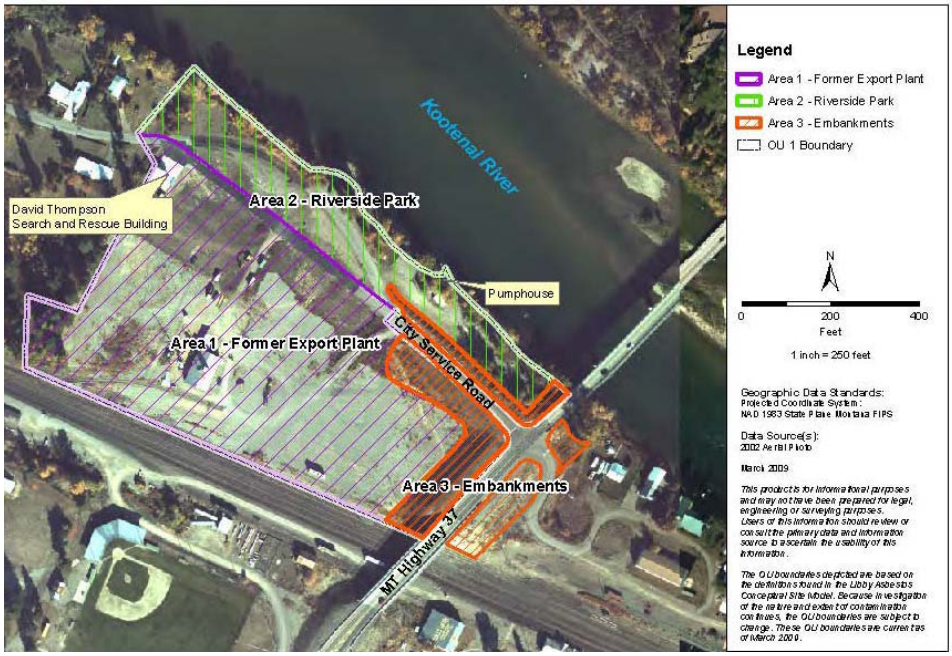
There are three primary areas within the OU that are carried through all discussions of the remedial alternatives:

- **Area 1.** The area of OU1 west of Highway 37 is divided into two areas by the partially-paved City Service Road. Area 1 is south of City Services Road and the location of the former Export Plant buildings. Area 1 is approximately 12-acres in size and a primarily undeveloped area that is currently owned by the City of Libby. In 2004, the David Thompson Search and Rescue organization constructed a building containing a main office and a 5-bay garage on the northwest portion of the site on the south side of City Service Road. This area is currently fenced.
- **Area 2.** Area 2 is the 4.7-acre area north of City Services Road, known as Riverfront Park. It is also owned by the City of Libby and is developed as a recreational facility. The main features of the park include two boat ramps, two pavilions, picnic tables, and a pump house.
- **Area 3.** Area 3 is made up of the embankments of City Service Road and Highway 37 (on and adjacent to the OU). The embankments adjacent to the OU are included because of their proximity and the known presence of LA and vermiculite in this area.

Prior to remediation, LA contamination was identified in soil throughout each of the above areas of OU1.

Exhibit 2-2. OU1 Site layout map.

Comment [NLR2]: Figure will be updated to include revised Area 1 and 2 boundaries.



2.2 Site History

2.2.1 Previous Uses

The following sections describe the previous and current uses of Areas 1-3 at OU1.

2.2.1.1 Former Export Plant (Area 1)

From the early 1960s to approximately 1990, the Export Plant was used by Grace for stockpiling and distributing vermiculite concentrate to Grace expansion plants and customers throughout the United States (Exhibit 2-2). Ownership was transferred to the City of Libby in the mid-1990s.

Throughout its history, portions of the site were leased to various parties for both commercial and non-commercial enterprises. From approximately 1977 to 1997, organized youth baseball events (games and practices) were held at ball fields, which were centrally located in Area 1. Between approximately 1987 and 2000, the Millwork West Company, a retail lumberyard and building material supplier, leased the northwestern portion of Area 1. Buildings and equipment owned by Millwork West were removed and/or demolished as part of the removal activities conducted by Grace in 2001 and 2002.

Other commercial and industrial uses of the site also occurred in the past that utilized infrastructure at the site. These other commercial/industrial uses reportedly included a metal scrap dealer and a larch tree gum manufacturer. The infrastructure that supported these

businesses included industrial power supply, a railroad spur, and truck scales. This infrastructure was removed during the removal activities conducted at this site.

Area 1 is currently owned by the City of Libby and is undeveloped, with the exception of a small area used by David Thompson Search and Rescue. In 2004, the search and rescue organization constructed a building containing an office and a five-bay garage on the northwest portion of the site on the south side of City Service Road. The garage is used for storing search and rescue equipment and vehicles. Several other agencies, including local and state law enforcement, also hold meetings in the main office. Access to Area 1 has been restricted by construction fencing and EPA has provided guidance to the city regarding the use of caution when conducting any activities at the site that disturb soil.

2.2.1.2 Riverfront Park (Area 2)

Area 2, Riverfront Park, is approximately 4.7 acres in size. It is also currently owned by the City of Libby and serves a variety of recreational visitors. The main features of the park include two boat ramps, two pavilions, picnic tables, and a pumphouse. The newer of the two boat ramps is used by recreational boaters and commercial fishing outfitters; the older ramp is not commonly used due to swift current at its approach. The pumphouse contains a pump that draws non-potable water from the Kootenai River. The pump was installed jointly by the City of Libby and Lincoln County in 1999 to provide a backup water source to local fire departments. The pumphouse is accessed by city personnel in order to perform maintenance on the pump. The pump is connected to an external water spigot, which is used by the city to draw water for street sweeping and other maintenance operations, and other workers (such as employees of local fill pits and contractors working on EPA's removal program) to draw water primarily for use in dust suppression equipment. Access to Area 2 is unrestricted.

2.2.1.3 Embankments (Area 3)

Area 3 is less than 1 acre in size. It is owned and maintained by the Montana Department of Transportation (MDT). MDT currently performs only periodic maintenance of these embankments as needed. The types of maintenance activities conducted by MDT include application of herbicides, replacement of guardrails and guardrail posts, and replacement and maintenance of roadside light posts. Access to these areas is unrestricted.

2.2.2 Response Action Summary

Multiple investigation, pre-removal, and removal events have occurred at OU1 to date. All of these activities were conducted by EPA or by Grace under EPA's oversight. These activities are detailed in the Final Remedial Investigation Report, Operable Unit 1 - Former Export Plant (RI Report), and summarized in Exhibits 2-3 and 2-4 below.

2.2.2.1 Other OU1 Investigation Activities

To estimate exposure associated with inhalation of LA in outdoor ambient air in and around the City of Libby, an outdoor ambient air monitoring program was designed for OU4. To estimate LA concentrations in ambient air specific to OU1, the four Libby site-wide sampling locations nearest to OU1 (Kootenai River Road, 247 Indian Head Road, 501 Mineral Avenue, and 1427 Highway 37N/J. Neils Park) were used. Of the 143 sample results from these locations, the total LA concentrations ranged from non-detect (ND) to 0.00016 structures per cubic centimeter

(s/cc). The average total LA concentration observed during 2006-2008 Libby site ambient air sampling program was 0.00001 s/cc.

Exhibit 2-3. Summary of Investigation Activities at OU1.

Year	Event	Summary
Area 1 – Former Export Plant		
1999, Dec	Soil sampling	Baseline evaluation of LA soil contamination on site.
2000, Mar/Apr	Soil and stationary air sampling	Soil sample event to supplement the 1999 investigation and better characterize site soil. Air sampling was conducted to establish baseline concentrations of LA in ambient air.
2000, June	Activity-based sampling (ABS)	Done to assess exposure risk associated with disturbance of LA in areas containing vermiculite. Activities investigated included floor sweeping and moving bags of vermiculite insulation inside a building.
2001, Mar/Apr/Aug	Soil, bulk material, and dust sampling	Investigation of soil, bulk materials (wood shavings, insulation, debris, etc. in the five buildings), and dust (surfaces inside warehouse and pole barn) sampling to determine if residual levels of LA remained at the site after the 2000/2001 removal.
2002, April/May	Bulk materials and soil sampling	Addressed concerns of tenants about residual contamination. Bulk materials samples (from Millwork West) and soil samples from areas of suspect mine-related materials).
2006, June	Soil sampling	City of Libby waterline sampling during excavation of a trench through Area 1 parallel to City Service Rd. in preparation for new water supply pipeline. Gross quantities of vermiculite were encountered. Samples were collected from soil stockpiled during initial pipeline excavation.
2007, Sept/Oct	Soil sampling and indoor ABS	RI data gap sampling, site-wide soil sampling and indoor ABS. Surface soil samples were collected to evaluate LA content and presence/absence of surficial vermiculite. ABS was conducted to assess indoor air in onsite building and outdoor air near disturbed soil.
Area 2 – Riverfront Park		
2003, May/July	Soil sampling	In response to a discovery of contaminated material, a visual inspection and soil sampling was conducted near the new boat ramp and picnic table area.
2003, Sept/Oct	Soil sampling	Pre-removal characterization included interviews, visual inspection, and collection of surface and subsurface soil samples.
2007, Sept	Soil sampling	Surface samples collected using a grid to evaluate LA asbestos content and presence/absence of surficial vermiculite.
Area 3 – Embankments		
2007, Sept	Soil sampling	RI data gap and soil sampling

Exhibit 2-4. Summary of Response Action Removals at OU1.

Year	Material Removed	Summary of Response Action
Area 1 – Former Export Plant		
July 2000 through January 2001 (Grace)	Vermiculite and contaminated dust, soil, and debris	Removal and cleaning per the unilateral administrative order (UAO) between EPA and Grace.
2001, September/ October (Grace)	Contaminated soil and building debris	Demolition of historic buildings and removal of contaminated soil
2002, October through December Grace)	Contaminated soil and building debris	Demolition of remaining historic building and removal of additional contaminated soil
Area 2 – Riverfront Park		
2003 Oct/Nov	Contaminated soil	Removal of contaminated soil
2007, July (City of Libby)	None	Placement of rock cover in areas of observed vermiculite
2008, May		Site work for placement of pavilion footers
2008, July	Contaminated soil	Removal of contaminated soil

2.2.3 Institutional Control Requirements from Response Action Decision Documents

The following is a summary of response action IC requirements and details from the OU1 ROD:

For OU1, ICs will be used to restrict use of areas containing contaminated subsurface soil. ICs for OU1 will include governmental and/or proprietary land use restrictions, and informational devices. Governmental ICs, for example, may impose land or resource restrictions using government authority, such as building codes, permits, or zoning regulations that are administered by local agencies. Proprietary controls, either private, governmental, or a combination of the two, typically involve landowner agreements or easements that restrict certain activities on the property.

A utility locate service, such as U-Dig, may also be considered as a way to notify anyone disturbing the ground that asbestos contamination may be found below the ground surface. U-Dig is a local service that people call at no cost before digging at their property to locate underground hazards (e.g., electrical lines). U-Dig could add "known areas of subsurface vermiculite at OU1" to their database of underground hazards using information provided by EPA. Advice on how to address the contamination, if disturbance is required, would be obtained from the environmental resource specialist (ERS). The ERS is a position currently staffed in Libby by EPA which may be transitioned to another government entity when remedial action across the Libby site is complete. In addition to providing advice and instruction, the ERS will manage any contamination encountered. Additional informational devices include the EPA Information Center, handouts, and contractor training classes. Specific details will be developed in the remedial design process.

The OU1 Operations and Maintenance Plan (O&M Plan) provides additional details regarding potential ICs such as proprietary controls, governmental controls, enforcement and permit tools, and informational devices.

Refer to the OU1 ROD or OU1 O&M Plan for more information regarding potential response action IC requirements.

2.3 Contaminant of Concern

The main COC and agent for potential exposure to the public at OU1 has been termed interchangeably by the EPA as Libby amphibole asbestos or LA. The threshold limit value (TLV) and permissible exposure limit (PEL) for exposure to LA in air is as follows:

Time-weighted average (TWA) limit: 0.1 fiber per cubic centimeter (cc) averaged over 8 hours as determined by 29 Code of Federal Regulations (CFR) 1910.1001, Appendix A or equivalent.

Excursion limit: 1.0 f/cc averaged over a sampling period of 30 minutes as determined by 29 CFR 191.1001, Appendix A or equivalent.

OU1 was historically owned and used by Grace for stockpiling, staging, and distributing vermiculite and vermiculite concentrate to vermiculite processing areas and insulation distributors outside of Libby. The vermiculite deposit that was mined by Grace contains a distinct form of naturally-occurring amphibole asbestos that is comprised of a range of mineral

types and morphologies. The term LA refers generally to amphibole materials that originated in the Libby vermiculite deposit, have the ability to form durable, long, and thin structures that are generally respirable, can reasonably be expected to cause disease, and hence are considered the contaminant of concern at the site.

Because vermiculite mined from Libby has been found to be contaminated with LA, which is known to cause human health effects, the EPA initiated an emergency response action in November 1999 to address questions and concerns raised by citizens of Libby regarding possible ongoing exposures to asbestos fibers as a result of historical mining, processing, and exportation of asbestos-containing vermiculite.

2.3.1 Physical Boundaries of Impacted Resources

OU1 is divided into three areas (Area 1, Area 2, and Area 3), each of which are described and shown in exhibits in Sections 2.1 and 2.2. Numerous investigations were conducted at the site and are summarized in Section 2.2.2. Based on those investigations, contamination is known to be present in the following media:

- Indoor air
- Indoor dust
- Outdoor air (both ambient and near disturbed soil)
- Soil

Exposure to the contamination has been mitigated by various interim removal actions (see Section 2.2.2) conducted in Areas 1 and 2 primarily to remove accessible source areas. Concentrations of LA remaining are shown in Exhibit 1-3.

Exhibit 2-5. Post-Removal LA Results Representing Current Status of OU1

Media	Total Number of Samples Collected	Total Number of Samples with Detections of LA	Percentage of Samples with LA Observed	Range of LA Results
Indoor Air	22	18	81.8	ND to 0.0699 s/cc
Indoor Dust	9	2	22.2	ND to 75 s/cm^2
Outdoor Ambient Air*	143	32	22.4	ND to 0.00016 s/cc
Outdoor Air Near Disturbed Soil	8	6	75.0	ND to 0.0715 s/cc
Surface Soil	73	16	21.9	ND to <1%

ND – non-detect; s/cc – structures per cubic centimeter; s/cm$_2$ – structures per square centimeter;* Original table from OU1 RI Report (EPA 2009a)

Specific sources of contamination as described in the OU1 RI Report include the following:

- Surface soil within the OU1 boundary contains visible vermiculite and also LA at ND, trace, or <1% levels.
- Subsurface soil is known to contain vermiculite, the exact location and depths of vermiculite containing soil are not fully documented or delineated.
- LA has been observed in indoor air and indoor dust samples at the search and rescue support building.
- LA has been observed in indoor air samples at the site collected during ABS activities within the garage and meeting room areas of the search and rescue support building.
- LA has been observed in outdoor ambient air samples collected near OU1.
- LA has been observed in personal air samples collected during bush hogging activities within the boundary of OU1.

2.4 Current Site Information

2.4.1 Parcel Ownership/Occupancy Information

Former Export Plant (Area 1): This parcel is owned by the City of Libby. The David Thompson Search and Rescue organization is the only current lessee and has constructed a building containing a main office and a five-bay garage on the northwest portion of the site on the south side of City Service Road.

Riverfront Park (Area 2): This parcel is owned by the City of Libby and there are currently no lessees.

Embankments (Area 3): This parcel is owned and maintained by the MDT.

2.4.2 Property Interest and Resource Ownership

There are currently no additional property interests at OU1 which may impact the ICs.

2.4.3 Current and Anticipated Future Site Land Use

2.4.3.1 Land Use

Area 1 is currently owned by the City of Libby and is undeveloped, with the exception of a small area of the site currently used by David Thompson Search and Rescue. In 2004, the search and rescue organization constructed a building containing a main office and a five-bay garage on the northwest portion of the site on the south side of City Service Road. The garage is used for storing search and rescue equipment and vehicles. Several other agencies, including local and state law enforcement, also hold meetings in the main office. Access to Area 1 is restricted by construction fencing and EPA has provided guidance to the city regarding the use of caution when conducting any activities at the site that disturb soil.

Area 2, Riverfront Park, is also currently owned by the city and serves a variety of recreational visitors. The main features of the park include two boat ramps, two pavilions, picnic tables, and a pumphouse. The newer of the two boat ramps is used by recreational boaters and commercial fishing outfitters; the older ramp is not commonly used due to swift current at its approach. The pumphouse houses a pump that draws non-potable water from the Kootenai River. The pump was installed jointly by the City of Libby and Lincoln County in 1999 to provide a backup water

source to local fire departments. The pumphouse is accessed by city personnel in order to perform maintenance on the pump. The pump is connected to an external water spigot, which is used by the city to draw water for street sweeping and other maintenance operations, and other workers (such as employees of local fill pits and contractors working on EPA's removal program) to draw water primarily for use in dust suppression equipment. Access to Area 2 is unrestricted.

Area 3 is owned and maintained by the MDT. MDT currently performs only periodic maintenance of these embankments as needed. The types of maintenance activities conducted by MDT include application of herbicides, replacement of guardrails and guardrail posts, and replacement and maintenance of roadside light posts. Access to this area is unrestricted.

It is anticipated that Area 1 will primarily be used as a city park, similar to the current use of Area 2. The city expects that David Thompson Search and Rescue will continue to utilize the northwest portion of the site. Area 2 (Riverfront Park) will continue to serve recreational visitors; a change in land use is not currently anticipated. It is also anticipated that Area 3 will not change use and will remain undeveloped and owned and maintained by MDT.

2.4.3.2 Groundwater Use

OU1 does not address groundwater contamination issues at the site. EPA does not consider groundwater to be a viable pathway for exposure.

2.4.3.3 Surface Water Use

Potential impacts to surface water (the Kootenai River) will be considered when ecological risk is evaluated.

2.4.4 Responsible Parties and Stakeholders

There are currently no additional responsible parties or stakeholders other than those described in Section 2.4.3.

2.4.5 Local Government Information

The local government responsible for ensuring implementation of the ICs and performing oversight of OU1 activities is the City of Libby. The City of Libby shall perform governmental oversight through the following means:

Comment [NLR3]: Need to identify IC oversight requirements for the next revision of this document.

Section 3
Mapping

The following maps show the extent of IC boundaries, locations of contamination, engineering controls, use restrictions, risk exposure assumptions, and reasonably anticipated future land uses.

Insert OU1 IC Maps

Section 4
Institutional Control Instruments

The following section outlines IC components and the four types of IC instruments in place at OU1: proprietary controls, governmental controls, enforcement documents, and informational devices.

4.1 Key Components

4.1.1 Institutional Controls Objectives

The following are the main objectives of the ICs in place at OU1:

1. Notify future land owners of presence of subsurface contamination and IC requirements
2. Mitigate the potential for inhalation exposures to asbestos fibers that would result in risks that exceed the target cancer risk range specified by EPA of 1E-06 to 1E-04 (one in one million to one in ten thousand).
3. Control erosion of contaminated soil by wind and water from source locations to prevent the spread of contamination to unimpacted locations and media.
4. Implement controls to prevent uses of the site that could pose unacceptable risks to human health or the environment or compromise the remedy.
5. Implement controls to prevent uses of the site that could spread contamination to unimpacted or previously remediated locations and media.

4.1.2 Current and Reasonably Anticipated Land Use

The ICs in place at OU1 are expected to allow for the current and anticipated uses of boating, fishing, recreation, search and rescue organization, and city maintenance services by creating a durable protective cap between the users and site contamination. ICs also serve to control any potential disturbance of the protective cap through such means as the City of Libby Park-use permitting system, Deed Notice, ERS, and Montana's U-Dig One Call System.

4.1.3 Instrument Duration

All IC Instruments set forth for OU1 are expected to be in-place in perpetuity. The only condition for termination of individual IC Instruments will be the complete removal and proper disposal of all contaminated subsurface soil.

4.2 Instrument Categories

Institutional controls are typically divided into four distinct categories; Proprietary Controls, Government Controls, Enforcement Documents, and Informational Devices. The following sections identify the IC instruments associated with OU1 under each of these four categories.

4.2.1 Proprietary Controls

Proprietary Controls at OU1 include a Deed Notice intended to notify future land owners of previous remedial action completed at the site, the potential presence of contamination within subsurface soils, and IC requirements related to the site. The Deed Notice will be drafted and appended to the land title.

4.2.1.1 Use Restrictions

No use restrictions are associated with this Proprietary Control. The Deed Notice will act simply as an informational tool for future land owners.

4.2.2 Government Controls

Government Controls at OU1 include the U-Dig One-Call System. Montana state law (MCA 69-4-503) requires that all parties planning to excavate, drill, or perform other subsurface activities notify a designated "One-call" notification center prior to the start of these activities. The ERS program is notified by the "One-call" center for all activities planned within the site boundaries. Advice on how to address the contamination, if disturbance is required, would be obtained from the ERS. In addition to providing advice and instruction, the ERS will manage any contamination encountered.

4.2.2.1 Use Restrictions

Use restrictions related to this Government Control are identified by Montana state law MCA 69-4-503. Persons intending to disturb the protective cover in place at OU1 will be required to notify a designated "One-call" center prior to conducting the activities. The ERS program will then provide advice on performing the activities according to site best management practices, and provide assistance with management/disposal of contamination encountered.

4.2.3 Enforcement Documents with Institutional Control Components

Enforcement Documents related to OU1 include a Park use-permitting system implemented by the City of Libby. All individuals and organizations intending to utilize Riverfront Park currently must apply for a use-permit with the City of Libby. The use-permit includes information on restricted activities.

4.2.3.1 Use Restrictions

Use restrictions related to this Enforcement Document are identified within the Park use-permit. Applicants will be provided with restrictions on activities that may penetrate the protective cover, and may result in disturbance and transportation of potential contaminated sub-surface soil.

4.2.4 Informational Devices

U-Dig with support from ERS Program – see section 4.2.3 above

Comment [NLR4]: This IC a Government Control or an Informational Device?

In addition to the U-Dig/ERS Program, all information for the site (historical and current site documents) is available to the public at the EPA Information Center. This Informational Device

will be maintained by EPA or another government organization throughout the lifespan of IC instrument implementation at the site.

4.2.4.1 Use Restrictions

No use restrictions are associated with this Informational Device. The EPA Information Center will act simply as an informational resource.

Section 5
Institutional Control Implementation

The following table (Exhibit 5-1) provides a brief summary of the implementation for all IC instruments for OU1 set forth by this plan.

Exhibit 5-1. Summary of IC Implementation.

Instrument Name	Deed Notice	Use Permit	UDig / ERS Program	O&M Plan
Instrument Category	Proprietary Control	Enforcement and Permit Tool	Government Control or Informational Device?	
Instrument Type				
IC Objectives	1	2, 3, 4, 5	2, 3, 4, 5	2, 3, 4, 5
Use Restrictions	N/A	To be developed	N/A	Best Management Practices and Engineering Controls
Implementation Prerequisites	Notice to be developed and attached to land title.	Develop and add use restrictions to current City of Libby use permit system.	Already in-place	To be developed
Implementation Complete	Legal recording of Deed Notice	TBD	Already in-place	TBD
Implementation Date	TBD			
Person or Organization Responsible for Performing Implementation and Contact Information	City of Libby		EPA / MTDEQ / City of Libby	
Instrument Lifespan	In perpetuity			
Conditions for termination of IC	Complete removal and disposal of all contamination at site			

Comment [po5]: I think we were going to delete this as an IC?

Section 6
Institutional Control Maintenance

Section 7
Institutional Control Enforcement

Section 8
Institutional Control Modification and Termination

Section 9
References

EPA 2009a. *Final Remedial Investigation Report, Operable Unit 1* - Former Export Plant, Libby Asbestos Site, Libby, Montana, prepared for EPA by CDM Federal Programs Corporation.

EPA 2009b. *Proposed Plan for Public Comment,* Libby Asbestos Superfund Site, OU1 – Former Export Plant. September.

EPA 2010. *Record of Decision for Libby Asbestos Superfund Site,* The Former Export Plan, Operable Unit 1, Lincoln County Montana. May.